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APR 21 2010

**SURFACE
TRANSPORTATION BOARD**

April 21, 2010

FILED

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**SURFACE
TRANSPORTATION BOARD**

BY HAND DELIVERY

226862

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423

Re: STB Finance Docket No. 35373, Stillwater Central Railroad, Inc. –
Assignment of Trackage Rights Exemption – Wichita, Tillman And
Jackson Railway Company, Inc., and Hollis & Eastern Railroad
Company

Dear Ms. Brown:

Attached for filing with the Board please find the original and ten copies of the Verified Notice of Exemption pursuant to the provisions of 49 C.F.R. § 1180.2(d)(7) covering the assignment of a trackage rights agreement to Stillwater Central Railroad Company. Enclosed is a check in the amount of \$1,300 to cover the filing fee.

Also attached is a Disc containing the Notice of Exemption and Summary.

Please time and date stamp the extra copy of the Notice and return it with our messenger.

Respectfully submitted,

Karl Morell

ENTERED
Office of Proceedings

APR 21 2010

Part of
Public Record

Enclosure

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO. 35373

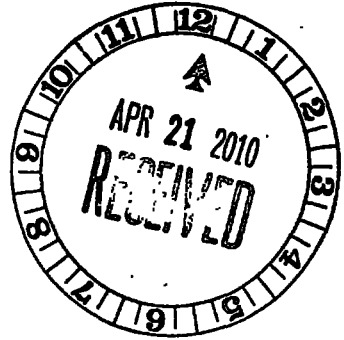
STILLWATER CENTRAL RAILROAD, INC.
-- ASSIGNMENT OF TRackage RIGHTS EXEMPTION --
WICHITA, TILLMAN AND JACKSON RAILWAY COMPANY, INC.,
AND HOLLIS & EASTERN RAILROAD COMPANY

VERIFIED NOTICE OF EXEMPTION
Pursuant to 49 C.F.R. § 1180.2(d)(7)

Karl Morell
Of Counsel
Ball Janik LLP
Suite 225
1455 F Street, N.W.
Washington, D.C. 20005
(202) 638-3307

Attorney for:
STILLWATER CENTRAL
RAILROAD, INC.

Dated: April 21, 2010



BEFORE THE
SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO. 35373

STILLWATER CENTRAL RAILROAD, INC.
-- ASSIGNMENT OF TRackage RIGHTS EXEMPTION --
WICHITA, TILLMAN AND JACKSON RAILWAY COMPANY, INC.,
AND HOLLIS & EASTERN RAILROAD COMPANY

VERIFIED NOTICE OF EXEMPTION
Pursuant to 49 C.F.R. § 1180.2(d)(7)

Stillwater Central Railroad, Inc. ("SLWC"), submits this Notice of Exemption pursuant to the class exemption at 49 C.F.R. § 1180.2(d)(7), for trackage rights over a section of rail line owned by the State of Oklahoma ("Oklahoma") and operated by Wichita, Tillman and Jackson Railway Company, Inc. ("WTJ"). SLWC is acquiring the trackage rights by assignment from the Hollis & Eastern Railroad Company ("H&E").

The trackage rights are based on a written agreement and are not sought in a responsive application in a rail consolidation proceeding.

Pursuant to the Board's regulations at 49 C.F.R. § 1180.4(g), SLWC submits the following information:

Section 1180.6 Supporting Information

(a)(1)(i) Description of Proposed Transaction

In 1992, the H&E and WTJ entered into an agreement whereby WTJ granted H&E restricted overhead trackage rights over a section of rail line operated by WTJ at Altus, OK ("Trackage Agreement"). H&E and WTJ recently supplemented the Trackage Agreement ("First Supplement").¹ The assigned Trackage Agreement and First Supplement will grant SLWC restricted overhead trackage rights over the rail line located between milepost 74.0, at Altus, OK, and the end of the line at milepost 78.6, near Altus, OK, including the wye track connecting to SLWC and all interchange tracks connecting with BNSF Railway Company ("BNSF") and Farmrail Corporation ("FMRC").

Name and address of tenant railroad:

Stillwater Central Railroad, Inc.
315 W. 3rd Street
Pittsburg, Kansas 66762

Questions regarding this transaction are to be addressed to SLWC's counsel:

Karl Morell
Of Counsel
Ball Janik LLP
Suite 225
1455 F Street, N.W.
Washington, DC 20005
(202) 638-3307

(a)(1)(ii) Consummation Date

The trackage rights will be consummated on the effective date of this Notice of Exemption.

(a)(1)(iii) Purpose Sought to be Accomplished

¹ The First Supplement needs to be approved by Oklahoma.

The assigned Trackage Agreement and First Supplement will enable SLWC to interchange traffic origination or terminating on the rail line leased by SLWC between Duke, OK and Altus, OK with BNSF and FMRC.

(a)(5) List of States in which the Party's Property is Situated

SLWC operates in the State of Oklahoma. The involved trackage rights are located in the State of Oklahoma.

(a)(6) Map

A map illustrating the trackage rights is attached as Exhibit A.

(a)(7)(ii) Agreement

A copy of the Trackage Agreement and First Supplement are attached as Exhibit B.²

Labor Protection

SLWC is agreeable to the labor protection conditions generally imposed in trackage rights proceedings as found in Norfolk and Western Ry. Co. – Trackage Rights – BN, 354 I.C.C. 605 (1878), as modified by Mendocino Coast Ry., Inc. – Lease and Operate, 360 I.C.C. 653 (1980).

² The per car trackage rights fee has been redacted from the Trackage Agreement and First Supplement. Should the Board require un-redacted versions, SLWC will file them under seal.

Environmental and Historic Matters

Environmental and historical impacts associated with trackage rights transactions generally are considered to be insignificant. Therefore, an environmental and historical report and documentation normally need not be submitted for this type of transaction, pursuant to 49 C.F.R. § 1105.6(c)(4) and .8(b)(3).

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Karl Morell", is written over a horizontal line.

Karl Morell
Of Counsel
Ball Janik LLP
Suite 225
1455 F Street, N.W.
Washington, D.C. 20005
(202) 638-3307

Attorney for:
STILLWATER CENTRAL
RAILROAD, INC.

Dated: April 21, 2010

VERIFICATION

STATE OF KANSAS

)

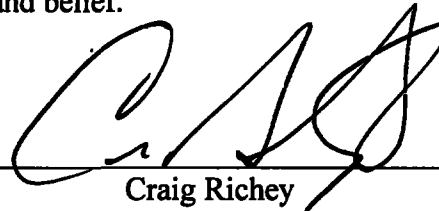
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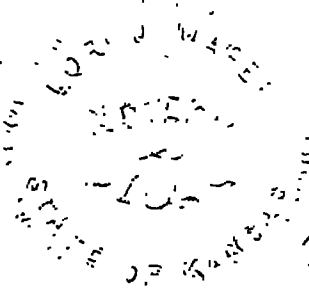
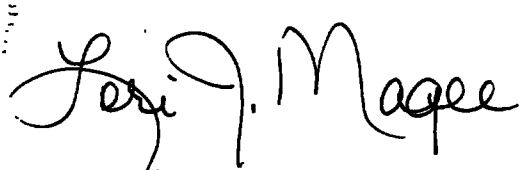
COUNTY OF CRAWFORD

)

I, Craig Richey, being duly sworn depose and state that I am General Counsel of Stillwater Central Railroad, Inc., that I am authorized to make this verification, and that I have read the foregoing Notice of Exemption and know the facts asserted therein are true and accurate as stated to the best of my knowledge, information, and belief.


Craig Richey

SUBSCRIBED AND SWORN TO before me this 9th day of April, 2010, in the County of Crawford, State of Kansas.



exp 8-16-2012

SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION

STB FINANCE DOCKET NO. 34373

**STILLWATER CENTRAL RAILROAD, INC.
-- ASSIGNMENT OF TRackage RIGHTS EXEMPTION --
WICHITA, TILLMAN AND JACKSON RAILWAY COMPANY, INC.,
AND HOLLIS & EASTERN RAILROAD COMPANY**

Hollis & Eastern Railroad Company (H&E) is assigning to Stillwater Central Railroad, Inc. (SLWC) the 1992 trackage rights agreement (Trackage Agreement) and First Supplement between H&E and the Wichita, Tillman and Jackson Railway Company, Inc. (WTJ). The assigned Trackage Agreement and First Supplement will grant SLWC restricted overhead trackage rights over the trackage owned by the State of Oklahoma and operated by WTJ located between milepost 74.0, at Altus, OK, and the end of the line at milepost 78.6, near Altus, OK, including the wye track connecting to SLWC and all interchange tracks connecting with BNSF Railway Company and Farmrail Corporation.

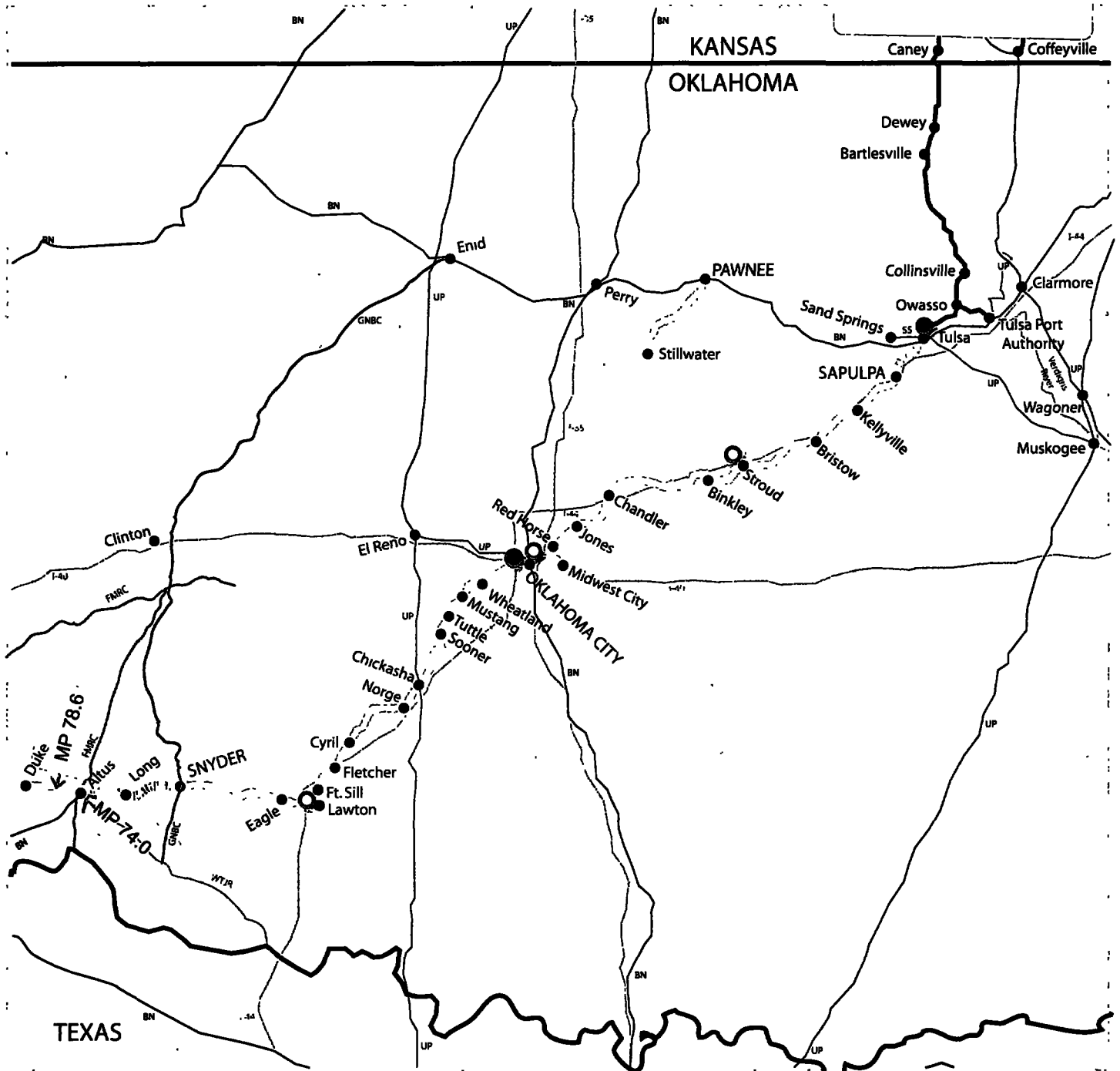
The trackage rights will be consummated on or after May 21, 2010.

This notice is filed under 49 C.F.R. § 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. § 10502(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

Dated:

By the Board,

EXHIBIT A



LEGEND:

- Stillwater Central Railroad (SLWC)
- Stillwater Central Trackage Rights
- South Kansas & Oklahoma RR (SKOL)
- Sand Springs RR (SS)
- Grainbelt Corporation (GNBC)
- Mechanical Services
- Switching Services
- Transload/Warehouse Services



Interchanges - Track miles 265.4

- BNSF - Oklahoma City, Pawnee, Sapulpa, Snyder, Altus
- FRMC - Altus
- GNBC - Snyder
- SKOL - Tulsa
- UP - Oklahoma City

TRACKAGE AGREEMENT

THIS AGREEMENT is made and entered into this the 22nd day of January, 1992, by and between the HOLLIS & EASTERN RAILROAD COMPANY, an Oklahoma corporation (hereinafter "H & E"), and WICHITA, TILLMAN AND JACKSON RAILWAY COMPANY, INC., an Oklahoma corporation (hereinafter "WTJ").

RECITALS

WHEREAS, H & E owns and operates a line of railroad extending from Duke, Oklahoma, to a connection with WTJ at Altus, Oklahoma, a distance of fourteen (14) miles, and;

WHEREAS, the State of Oklahoma (hereinafter "STATE") owns and WTJ operates and by lease agreement with STATE maintains certain lines of railroad in the State of Oklahoma including certain tracks and yard facilities in and adjacent to the City of Altus, Oklahoma, including a track connecting with H & E and tracks connecting with Burlington Northern and Texas & Oklahoma railroads at Altus, and;

WHEREAS, H & E desires the right to use (in common with WTJ) STATE's track and yard facilities in and adjacent to Altus, Oklahoma, for the purpose of storing locomotives and rolling stock and for the purpose of offsetting interchange between H & E and Burlington Northern, Texas & Oklahoma Railroad, and WTJ, such tracks and yard facilities being more particularly described in Article III hereinafter, and;

WHEREAS, as STATE'S lessee, WTJ desires to permit H & E to use track and yard facilities described in Article III hereinafter for the purposes just described;

NOW THEREFORE, in consideration of the premises and covenants and of the agreements herein expressed, the parties hereto covenant and agree as follows:

ARTICLE I

The parties signatory hereto will, at equally prorated cost and expense, submit this agreement to the Interstate Commerce Commission.

ARTICLE II

This agreement shall become effective at 12:01 A.M. of the first day of the first month following receipt of Interstate Commerce Commission approval, and shall remain in effect in perpetuity unless terminated by either of the signatory parties serving upon the other signatory party ninety (90) days written notice of its intention to do so.

ARTICLE III

WTJ hereby grants to H & E, subject to the terms, conditions and limitations in this agreement expressed, the right to use in common with WTJ the following WTJ main and auxiliary tracks (hereinafter referred to as "WTJ TRACK", such term comprehending STATE ownership and WTJ operation and maintenance) at and adjacent

to Altus, Oklahoma:

"WTJ TRACK" (main) and all WTJ TRACKS (yard and auxiliary) adjacent to WTJ TRACK (main), between mile post 74.0 and end of WTJ TRACK at mile post 78.6, including wye track connecting to H & E and all interchange tracks connecting with Burlington Northern and Texas & Oklahoma Railroad,

PROVIDED THAT, HOWEVER:

- A. H & E agrees WTJ TRACK will not be used for the purpose of interchanging grain or grain products with Burlington Northern without the express permission of WTJ;
- B. H & E agrees it will not, under provisions of this agreement or otherwise, permit or provide for the use of WTJ TRACKS by any other railroad;
- C. H & E agrees it will not leave locomotives, rolling stock or other equipment blocking or fouling WTJ's TRACK (main) track except when main track is in immediate use for moving engines or rolling stock or for switching, and except that H & E may use WTJ TRACK (main) north (operating west) of north (operating west) leg of wye at Altus, leaving 250 feet of clear tail room beyond the north switch of the wye so that WTJ may turn its equipment and effect its interchange with the Texas and Oklahoma Railroad. H & E further agrees it will not occupy or foul more than one track in WTJ's Altus yard with stored locomotives or rolling stock without WTJ's permission, cars being interchanged between H & E and WTJ

excepted.

- D. H & E agrees that occupancy of and movement over WTJ TRACK main is governed by Rule 93 of the edition of the General Code of Operating Rules, in effect at the time of movement, and that movement over all WTJ TRACK (yard and auxiliary) is governed by Rule 105 of the edition of General Code of Operating Rules in effect at the time of movement.
- E. H & E agrees it will not handle any business originating or terminating on WTJ TRACK as described in Article III of this agreement without written consent of WTJ.

ARTICLE IV

WTJ TRACK shall be and remain the property of STATE. WTJ shall maintain, repair and renew WTJ TRACK as it deems necessary. In case of damage to track caused exclusively by H & E, for whatever reason, WTJ shall repair track and bill H & E for such repairs at cost.

ARTICLE V

H & E shall provide to WTJ a certificate of insurance covering its operating over WTJ TRACK, with liability limits of at least \$2,000,000 and covering, at a minimum, the following:

- A. General liability including environmental damage;
- B. Foreign line equipment damage;
- C. Lading loss (bill of lading coverage);
- D. Federal Employers Liability Act protection (FELA).

ARTICLE VI

H & E shall be solely responsible for all damage or injury caused to its property and employees because of derailment, collision, grade crossing accident or other accident directly resulting from H & E's actions, and for all damage or injury caused to STATE, WTJ or other parties because of the reasons above, except to the extent that WTJ or a third party is responsible because of its recklessness, willful misconduct or negligence. In case of collision between WTJ and H & E movements, the party solely responsible shall be liable for all property damage, injury claims and claims of other parties; in case of joint negligence, each party (H & E and WTJ) shall bear all such costs equally. H & E and WTJ shall jointly indemnify and hold harmless STATE from any and all damage and injury claims as stated above.

ARTICLE VII

H & E employees operating on WTJ TRACK shall be qualified in the General Code of Operating Rules, and shall be responsible for complying with all applicable laws and regulations promulgated by regulatory bodies having jurisdiction over the operation.

ARTICLE VIII

WTJ retains the right to disqualify any H & E employee (for cause) from operating over WTJ TRACK, subsequent to appropriate joint investigation/hearing as prescribed by the Railway Labor Act, as amended.

ARTICLE IX

H & E shall pay to WTJ, the sum of

for each loaded car interchanged with the Texas & Oklahoma Railroad and. for each loaded

car interchanged with the Burlington Northern. If any particular interchange with the Texas & Oklahoma Railroad or Burlington Northern involves empty cars only with no loaded car or cars delivered or received in such interchange in either direction, the H & E shall pay the WTJ a single charge of

total for the interchange of such empties whether same involves one or more empty cars. No car charge shall be levied for any car, loaded or empty, which is interchanged with the WTJ. In order to determine the number of cars interchanged with the Texas & Oklahoma Railroad and Burlington Northern, H & E shall deliver to the WTJ office at Fort Worth, Texas, as interchange reports are prepared for the movement of cars, a duplicate copy of each interchange report showing car interchanges with the Texas & Oklahoma and Burlington Northern, numbered consecutively in the order in which such interchanges shall have been made. WTJ shall on the first of each month, or as soon thereafter as possible under WTJ's ordinary business practices, prepare and forward to H & E a bill based on the number of cars so interchanged during the previous month at the applicable rate quoted above. H & E shall pay to WTJ the amount so billed within ten (10) days from receipt of such bill.

ARTICLE X

If traffic on WTJ TRACK, or business thereon, is at any time interrupted or delayed by derailments or from any cause other than the willful act of either party, then and in such case neither party shall have any claim against the other party for loss or damage of any kind caused by or resulting from such interruption or delay.

ARTICLE XI

The charges prescribed in Article IX may be renegotiated at two-year intervals. Increases may not exceed 10% a year except as mutually agreed upon, and will generally follow the Association of American Railroads index of Railroad Material Prices and Wage Rates, if increases are decided upon.

ARTICLE XII

This agreement shall not affect, modify or supersede in any respect any agreement, understanding or arrangement between H & E and the Missouri-Kansas-Texas Railroad Company (hereinafter "MKT"), the Missouri Pacific Railway or any assignee or successor-in-interest to such companies, with respect to the division of freight revenues, whether pursuant to Interstate Commerce Commission Finance Docket No. 20440, the Trackage Agreement dated May 18, 1973 by and between H & E and MKT or otherwise. H & E and WTJ understand and acknowledge that WTJ has no responsibility for any payments to H & E for the divisions of freight revenues referred to in this Article.

ARTICLE XIII

This agreement shall inure to the benefit of and be binding upon the parties hereto, their respective successors, lessees and assigns, but no assignment by H & E of any interest or right under this agreement separate and apart from an assignment, sale or lease of substantially its entire railroad shall be valid without the written consent of WTJ.

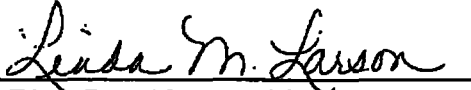
IN WITNESS WHEREOF, the parties hereto have caused this agreement to be duly executed as of the day and year first written preceding.

WICHITA, TILLMAN & JACKSON RAILWAY COMPANY, INC.

By


President & Chief Executive Officer

ATTEST:

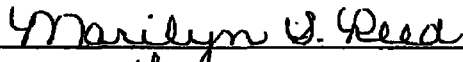

Vice President -- Administration

HOLLIS & EASTERN RAILROAD COMPANY

By


General Manager

ATTEST:


Secretary

CONCUR:

For STATE OF OKLAHOMA

FIRST SUPPLEMENT TO
TRACKAGE RIGHTS AGREEMENT, dated January 22, 1992

BY AND BETWEEN

HOLLIS & EASTERN RAILROAD COMPANY, an Oklahoma corporation, and
WICHITA, TILLMAN & JACKSON RAILWAY COMPANY, an Oklahoma corporation

This First Supplemental Agreement is made and entered into and becomes effective this 1st day of April, 2010, by and between WICHITA, TILLMAN & JACKSON RAILWAY (WTJR) and HOLLIS & EASTERN RAILROAD COMPANY (H&E).

RECITALS:

By instrument dated January 22, 1992, the Parties hereto entered into an agreement (herein the Basic Agreement) which, as supplemented, covers the Trackage Rights Agreement allowing H & E the right to use (in common with WTJR), the State of Oklahoma owned track and yard facilities in and adjacent to Altus, Oklahoma, for purposes of storing locomotives and rolling stock and for purposes of offsetting interchange between the H & E and Burlington Northern, Texas & Oklahoma Railroad and WTJR.

AGREEMENT:

Now, therefore, it is agreed by and between the parties hereto as follows:

SECTION I. AMENDMENT OF BASIC AGREEMENT

Part A. ARTICLE III, Paragraph B. is revised to read: "H & E agrees it will not, under provisions of this agreement or otherwise, permit or provide for the use of WTJR tracks as described herein by any other railroad, without the express written consent of WTJR, which shall not be unreasonably withheld;"

Part B. ARTICLE III, Paragraph D. is revised to read: "H & E agrees that occupancy of and movement over WTJR main, yard and auxiliary track is governed by the General Code of Operating Rules (GCOR), WTJR Timetable and Special Instructions in effect at the time of movement and as follows.

Track Authorization & Bulletins

1. Follow all applicable WTJR railroad instructions before entering any track. Do not enter main tracks unless authorized in accordance with GCOR 6.3 (Main Track Authorization) and applicable WTJR railroad Timetable instructions. Entrance to all Other Than Main Tracks is governed by GCOR 6.28 (Movement on Other Than Main Track).
2. Determine if any track bulletins are needed before initiating movement on any main track in accordance with GCOR 6.2

(Initiating Movement) and applicable WTJR railroad Timetable instructions.

3. The following information must be provided to the WTJR Train Dispatcher's Office:

- Movements entering WTJR property;
 - ✓ Names of all crew members and time on duty.
 - ✓ Locomotives and train consist (loads, empties, tons, and train length).
- Movements leaving WTJR property;
 - ✓ Locomotives and train consist (loads, empties, tons, and train length).
 - ✓ Time clear of WTJR property."

Part C. ARTICLE V is revised to read: "H & E, or any other railroad, to which this agreement may be assigned, shall provide to WTJR or its successors or assigns, an acceptable certificate of insurance covering its operations of WTJR trackage, with liability limits of at least \$10,000,000, and covering at a minimum, the following:

- A. General Liability including environmental damage;
- B. Foreign line equipment damage;
- C. Lading Loss (bill of lading coverage);
- D. Federal Employers Liability Act protection (FELA);"

Part D. ARTICLE VII is revised to read: "H & E employees, or those of other carriers operating under these trackage rights as assigned or otherwise permitted to use, shall be qualified in the General code of Operating Rules in effect at the time of operation, and shall be responsible for complying with all applicable laws, regulations and operating procedures in effect as promulgated by the WTJR and/or regulatory bodies having jurisdiction over the operation at the time."

Part E. ARTICLE IX is revised to read: "H & E shall pay to WTJR, the sum of

for each loaded car or revenue empty car interchanged to any other carrier in Altus, Oklahoma, or handled via trackage rights by any other carrier over the WTJR track. No trackage rights fees as described herein shall be levied for any car, loaded or empty, which is interchanged with the WTJR. H & E shall deliver to the WTJR office in Fort Worth, Texas, via facsimile, mail or express, or electronic transmission valid and certified Summary of Cars Interchanged for the movement of empty and loaded cars by carrier and date, with duplicate, supporting copy of each interchange report showing car and locomotive interchanges with all carriers, numbered consecutively in the order in which such interchanges shall have been made. Likewise, a Summary of Cars Moving over WTJR via Trackage Rights shall similarly be prepared and submitted. H & E shall on the first day of each month, or as soon thereafter as possible, prepare and

forward to WTJR its true and accurate reports, with supporting information for review. H & E shall pay to WTJR the amount, so billed, within ten (10) days from submission of said reports unless exception is taken by WTJR."

Part F. ARTICLE XI is revised to read: "The charges prescribed in Article IX shall be renegotiated at two-year intervals, commencing on April 1, 2012. Any adjustment in the charges prescribed in Article IX shall be based on the Unadjusted for Productivity Rail Cost Adjustment Factor (RCAFU 2007 = 1.00) as approved and published by the Surface Transportation Board. The adjustment shall be subject to a maximum increase of 10% a year except as mutually agreed upon. The April 1, 2012 adjustment shall be calculated as the percentage change in the first quarter of 2010 RCAFU to the first quarter of 2012 RCAFU.

If the Surface Transportation Board rebases the RCAFU, the rebased values will be used in the adjustment calculations.

SECTION II. EFFECTIVE DATE

This Supplemental Agreement shall be effective as of April 1, 2010.

SECTION III. AGREEMENT SUPPLEMENTAL

This Agreement is supplemental to the Basic Agreement, as herein amended, and nothing herein contained shall be construed as amending or modifying the same except as herein specifically provided.

IN WITNESS WHEREOF, the parties hereto have caused this First Supplemental Agreement to be executed in duplicate as of the day and year first written.

HOLLIS & EASTERN RAILROAD COMPANY

By: Jim Pals
Title: VP-FINANCE
Attest: Wayne E. Johnson

WICHITA, TILLMAN & JACKSON RAILWAY COMPANY

By: King & Butch
Title: President
Attest: Donna Hauer

CONCUR:

STATE OF OKLAHOMA DEPARTMENT OF TRANSPORTATION

By: _____